

JUDGE'S PROCEDURAL RULES AND POLICIES

Workers' Compensation Automation and Integration System (WCAIS) is the official repository for all documents related to a Dispute (matter pending) before a Workers' Compensation Judge. All documents, including evidence and briefs, that would have been submitted to a Workers' Compensation Judge by mail or in person prior to WCAIS should now be uploaded into WCAIS. If Social Security numbers appear on any such document, they should be completely redacted before the document is uploaded, unless otherwise specified below. All communications with the Judge, including but not limited to requests, should be submitted through WCAIS unless otherwise specified by the Judge.

HEARING PROCEDURES

1. What is the first event and what will occur?

On all Petitions, the first hearing will be pre-trial, with a trial schedule being issued by this Judge. No testimony will be heard at initial hearing. On claimant generated petitions, claimant's deposition shall be taken within forty-five days subsequent to the first hearing, and one final hearing will be scheduled. On defense-initiated petitions, the initial event will consist of a supersedeas hearing with one final hearing scheduled. Interim hearings will be scheduled if deemed necessary. Anytime during the course of the litigation, either party may request a hearing through "Request a Hearing" tab in WCAIS. The party must state the reason for the hearing, approximate day of hearing and position of opposing counsel.

a. List any documents required at the first event: Bureau documents must be uploaded into WCAIS under the exhibits tab before the final hearing. Supersedeas exhibits must be uploaded under the appropriate supersedeas exhibits tab in WCAIS prior to first hearing.

b. Should documents be uploaded as Exhibits or Letters to the Judge?

Documentary evidence must be uploaded under the Exhibits tab. When uploading exhibits, concisely state the NAME of the exhibit, i.e., Claimant deposition, Dr. Jones deposition. It is unnecessary to number the exhibits when uploading.
DO NOT NAME EXHIBITS AS C1 OR D1.

2. Describe the format of your hearings (e.g., serial, one day – one trial).

Pretrial hearing and one final hearing. An interim hearing may be scheduled at the request of the parties or at the discretion of this Judge.

3. Are you willing to change the hearing format upon request?

Yes. Upon good cause shown.

4. What factors will you consider in deciding whether to conduct a hearing in-person?

The status of the COVID 19 pandemic. Any event that could potentially affect the health and safety of his Judge, counsel, witnesses, claimants, staff and/or other involved in the hearing.

5. What factors will you consider in deciding whether to conduct a virtual hearing by audio only or by audio with video?

Virtual hearings are to be both audio and video hearings. Testimony by any party **MUST BE VIDEO**, unless there are compelling circumstances. Attorneys are expected to participate in all hearings via video.

Testimony is typically heard on Tuesdays. Pretrial hearings and status hearings are held on Fridays. Compromise and release hearings will be scheduled Tuesdays and Fridays. Hearings will be conducted virtually, unless otherwise directed. If a party wishes in-person hearings for testimony, the party must make a request for in person hearing no later than two weeks prior to the scheduled video hearing.

6. What procedure do you follow if a party fails to appear at a hearing?

This Judge will reschedule the hearing for one additional time and upon good cause shown.

7. Do you have special procedures for psychological injury cases?

These cases will be considered on a case-by-case basis.

SUPERSEDEAS PROCEDURES

1. What are your procedures for supersedeas hearings?

- a. Will testimony be heard?

No.

- b. Is additional time generally granted to obtain medical evidence?

Upon good cause shown.

- c. Under what circumstances will you reconsider a supersedeas order?

Upon good cause shown.

- d. Do you generally use written orders for denials?

Yes.

- e. What is required for employee's counsel to obtain interim fee approval? Upload fee agreement prior to supersedeas hearing.

- f. Describe any other procedures for supersedeas hearings:

Bureau documents must be uploaded prior to hearing under exhibits tab in WCAIS.

- g. Describe procedures for special supersedeas hearings, if different:

WITNESSES/EXHIBITS

1. What are your rules regarding taking testimony? Claimant's deposition must be completed during the pendency of the litigation. Claimant must testify by video (if virtual) or in person when testimony is scheduled for the Philadelphia office. Employer fact witnesses may testify by deposition on agreement of parties. This Judge is always willing to hear testimony from employer fact witnesses. Such request should be

made at time of initial hearing or either party may submit “Request for hearing” tab in WCAIS at any time during the litigation. However, unless thirty days’ notice is given prior to final hearing of the party’s intention to present employer testimony at the final hearing, such request may be denied.

2. Do you require testimony at a virtual hearing, an in-person hearing, or by deposition?

See above.

3. Under what circumstances will you change your requirements for presentation of testimony?

Will be decided on case-by-case basis.

4. If counsel wishes to present the testimony of a witness (either virtually or in-person), do you require prior notice? Yes. See above. If yes, how much notice do you require? See above.

5. What is your procedure regarding the order of expert medical testimony when cross petitions are filed?

Party filing initial petition will proceed with medical testimony. However, this may also be decided on case by-case basis.

6. Do the parties need to upload the Bureau and WCOA documents as exhibits, or will you admit them electronically as Judge exhibits?

Parties are responsible for uploading all Bureau and/or WCOA documents to be considered on the merits on the Petition.

7. Do you require counsel to upload exhibits to WCAIS before or after the hearing? All exhibits must be uploaded prior to the final hearing in this matter. If before, how far in advance of the hearing must they be uploaded? No specific time frame, but all exhibits (except for litigation costs and Act 109 documents, or any other exhibits discussed at final hearing) must be uploaded prior to final hearing.

Exhibits must be individually named (such as claimant’s deposition, Dr. Jones deposition) and not merely assigned a number, for example, C-1, D-1.

8. When will you rule on objections to exhibits?

At the hearing when this Judge will consider any objections to the exhibits and admit exhibits into the record. Any exhibits uploaded into WCAIS after the final hearing when the record is closed will not be considered part of the evidentiary record unless leave to upload the exhibits was granted by this Judge.

9. What is your procedure for handling discovery disputes?

Discovery disputes will be resolved either through a conference call requested by the parties or at a hearing.

10. What is the last day to file written preservations of deposition objections?

The parties are permitted to file written preservation of objections at the time of filing of the respective party's brief. The preserved objections must also be uploaded under the Exhibits tab in WCAIS.

COMPROMISE & RELEASES (C&Rs)

1. Describe your procedures regarding the review of C&R Agreements:

Both an unredacted and redacted version of the compromise and release agreement must be uploaded at least twenty-four hours prior to the scheduled hearing. Once this Judge has had an opportunity to review both copies, this Judge will delete the unredacted version and circulate the redacted version of the compromise and release agreement.

- a. Are you willing to allow amendments of existing petitions or do you require the filing of a separate Petition Seeking Approval of a C&R Agreement?**

If time permits, a separate Petition seeking approval of compromise and Release Agreement should be filed.

- b. Are parties required to provide a draft of the C&R Agreement before the hearing? If yes, how far in advance of the hearing do you need to receive it?**

Yes. See above.

- c. Should the parties upload the signed C&R Agreement, including the fee agreement and any other attachments, before or after the hearing?**

Before the hearing, see above.

- d. Should child support documents be uploaded as a separate exhibit?**

Not necessary. All documents should be uploaded as the one exhibit.

- e. Should Social Security numbers and other confidential information be redacted from the C&R Agreement and Act 109 documents?**

See above.

- f. Will you sign bench orders?**

No.

- g. Describe any other procedures you have for C&R Agreements:**

STIPULATIONS RESOLVING DISPUTES

1. What are your usual procedures regarding the submission, review, and adoption of stipulations?

Stipulations with attachments must be uploaded under the Exhibits tab. A separate request must be uploaded advising the Stipulation has been uploaded.

2. Should the fee agreement be part of the stipulation or separate exhibit?

Fee Agreement should be part of the stipulation.

3. Should child support documents be uploaded as a separate exhibit?

Child support documentation should be uploaded as part of the stipulation.

4. What other exhibits should be uploaded (i.e., medical bills, etc.)?

Any other exhibits necessary.

5. Should other exhibits uploaded as be part of the stipulation or as separate exhibits?

All exhibits should be uploaded as same exhibit as Stipulation.

6. When should Social Security numbers and other confidential information be redacted from the stipulation and Act 109 documents?

Both redacted and unredacted copies must be uploaded. After this Judge reviews both documents, the unredacted documentation will be deleted and the redacted documents will be circulated.

7. Describe any other procedures you have for stipulations:

BRIEFS AND PROPOSED FINDINGS

1. Will you close a case via WCAIS submission or is a final hearing required?

A final hearing is required and no exhibits will be part of the evidentiary record unless admitted by this Judge during hearing.

2. What are the time requirements for final submissions and what procedures are taken when time requirements are not met?

Briefing schedule will be set by this Judge. Unless a request for an extension of briefing schedule is made by the party, this Judge will change the status to waiting for decision.

3. Describe any preferences regarding the format and content of final submissions:

The parties are required to file standard form brief; statement of facts, issue presented, argument and conclusions in addition to Findings of Facts. The Findings of Facts and/or briefs must provide specific reasons for credibility determinations and should not simply state the witness is found credible, without supporting reasoning.

MANDATORY MEDIATIONS

1. List the offices where you conduct mandatory mediations: Philadelphia and case by case basis.

2. What factors will you consider in deciding whether to conduct a mandatory mediation virtually or inperson?

Unless extraordinary circumstances require in person mediations, mediations will be conducted virtually.

3. What factors will you consider in deciding whether to conduct a virtual mandatory mediation by audio only or by audio with video?

Case by case basis.

4. Are you willing to allow counsel or a party to participate virtually in an in-person mandatory mediation? If so, under what circumstances?

Case by case basis. Party must submit request for approval by this Judge.

5. Do you require a Mediation Statement? Mediation statements are beneficial. If yes:

- a. What information do you require in that Statement?]

Only necessary information to assist this Judge in conducting the mediation.

- b. What documents, if any, must accompany the Statement?

No documents are necessary

- c. How far in advance of the mediation must the parties submit the Statement and accompanying documents? Twenty-four hours.

6. If there is a request to postpone a mandatory mediation, will it be rescheduled? No. Parties may avail themselves of the voluntary process if and when parties are prepared to move forward with mediation. If so, how long until it is rescheduled?

7. Are you willing to conduct more than one mandatory mediation session per Dispute?

Yes.

8. What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?

Three days prior to mediation.

9. What else should the parties know or do before the mediation?

VOLUNTARY MEDIATIONS

1. Do you conduct Voluntary Mediations?

Yes.

2. How should the parties request a Voluntary Mediation?

Send the necessary request through WCAIS or send email to me at nfarese@pa.gov, with copy to opposing counsel.

3. List the locations where you conduct in-person voluntary mediations: Philadelphia

4. Will you conduct virtual voluntary mediations? If yes, for which WCOA Districts will you conduct them?
Yes.

5. Do you mediate Disputes assigned to you for hearing and decision?
No.

6. Do you mediate Disputes in which one or both parties are unrepresented? If yes, describe any special procedures you have for such cases:
No.

7. What factors will you consider in deciding whether to conduct a voluntary mediation virtually or in-person?
Same as circumstances for mandatory mediations.

8. What factors will you consider in deciding whether to conduct a virtual voluntary mediation by audio only or by audio with video?
Same as circumstances for mandatory mediations.

9. Are you willing to allow counsel or a party to participate virtually in an in-person voluntary mediation? If so, under what circumstances?
Same requirement as mandatory mediation.

10. Do you require a Mediation Statement? Same requirements for mandatory mediations. If yes:
a. What information do you require in that Statement?
b. What documents, if any, must accompany the Statement?
c. How far in advance of the mediation must the parties submit the Statement and accompanying documents?

11. After you approve a Voluntary Mediation Request, how long until it is scheduled?
Next available date.

12. Are you willing to conduct more than one voluntary mediation session per Dispute?
Yes.

13. If the party wants to request cancellation or postponement of a voluntary mediation on a Dispute assigned to you, should they contact you or the mediating Judge?
Party wishing to cancel/postpone voluntary mediation must contact mediating judge.

14. What is the latest day before the mediation that cancellation or postponement, absent an emergency, can be requested?

Three days.

15. What else should the parties know or do before the mediation?

REQUESTS/MISCELLANEOUS

1. How far in advance do you require Requests for continuances, changes in hearing times, and extensions to be uploaded into WCAIS?

Seven days unless extenuating circumstances.

2. Under what circumstances do you conduct off the record conference calls?

Discovery disputes, objections to subpoenas.

3. Under what conditions/circumstances do you accept e-mails from parties?

Only in those circumstances when communication through WCAIS is impossible, i.e., dispute is closed, an emergency situation or a request for a voluntary mediation. All other communications must be made through the appropriate tab in WCAIS.

4. Do you adhere strictly to the duration listed for a Hearing or Mediation?

No.

5. What is the best way to contact you in an emergency situation?

In an emergency situation, e mail is accepted, with copies to all other parties and my assistant.

6. What is your snow/emergency cancellation policy regarding in-person and virtual events (i.e., do you follow a specific school district closing schedule, etc.)? If events are scheduled in person, if delayed opening or closing of Philadelphia School District, in person mediations and hearings are cancelled. Virtual hearings and mediations will still proceed as scheduled, unless otherwise stated on WCAIS home page.